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May 24, 2006

To: Mayor Michael D. Antonovich
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Supervisor Don Knabe

From: David E. Janssen
Chief Administrative Officer

WASHINGTON, D.C. UPDATE

Pursuit of County Position on Federal Legislation

S. 2667 (Boxer, D-CA) and H.R. 5244 (Roybal-Allard, D-CA), the Los Angeles River Revitalization Act, are identical companion bills which would authorize the Army Corps of Engineers, in cooperation with the City of Los Angeles and "appropriate" Federal, State, regional, and local agencies to prepare within three years a project-specific plan to revitalize the Los Angeles River in a manner consistent with the City of Los Angeles' "LA River Revitalization Master Plan." The bills, which were introduced on April 27, 2006, would authorize a combined total of \$79 million in appropriations relating to the revitalization of the Los Angeles River.

The Corps' plan to revitalize the river must address environmental restoration, recreation, water conservation, flood control, economic development and other uses. The City, or any other non-Federal sponsor, would pay at least 50 percent of the cost of carrying out the Corps' plan. The bills authorize \$4 million in appropriations to develop the Revitalization Master Plan. The Corps, in conjunction with the City of Los Angeles, may recommend a "locally preferred project" as an alternative to a measure in the Corps-proposed plan.

In addition to the \$4 million for the development of the plan, both bills authorize \$35 million in appropriations for pilot projects to carry out the revitalization plan, with a cap of \$5 million per project. Eligible projects include channel wall texturing, a flood

control system that incorporates an in-channel temporary dam to pond water for environmental or aesthetic purposes, graffiti removal, and wetlands or riparian habitat restoration. Furthermore, the bill authorizes an additional \$40 million for an unspecified water reuse project "that includes measures for environmental restoration and revitalization of the LA River within the City of Los Angeles." The Corps must pay at least 35 percent of the total costs of the pilot project and shall agree to "acquire any land, easement, right-of-way, relocation, or dredged material disposal area" required to carry out the project. The legislation does not specifically limit the project to the 32 miles of the Los Angeles River within the City or Los Angeles, and is currently silent on liability and maintenance responsibilities and requirements.

According to the Department of Public Works (DPW), the Los Angeles County Flood Control District (FCD) either owns or has easement rights over the Los Angeles River throughout the City of Los Angeles. DPW indicates that the FCD maintains the Los Angeles River from the headwaters to just downstream of Lankershim Boulevard. At the Sepulveda Basin and downstream of Lankershim Boulevard, the River is maintained by the Corps of Engineers. In the FCD maintenance areas, FCD has some jurisdiction over improvements.

DPW indicates that the Corps has jurisdiction over structural modifications to the channel at all locations, and over issues affecting maintenance in the areas they maintain. By virtue of the fact that the improvements would take place within City limits, the City also has some jurisdiction over the proposed improvements. Also, there are some locations where the City is the underlying property owner of the channel (mostly downtown). At these locations, DPW indicates that City approval would also be required for any improvements to the channel or channel right-of-way.

DPW is leading the implementation of the Los Angeles River Master Plan (LARMP), an environmental planning document that promotes the aesthetic, environmental, recreation, and economic enhancement and development of the Los Angeles River while maintaining the River's primary function of flood protection. As the leaders in implementing the LARMP, DPW has been informed of major milestones associated with the development of the City of Los Angeles' River Revitalization Plan while attending the City's monthly Task Force meetings. DPW indicates that some of the possible revitalization proposals are for uses that are non-flood control related and are either aesthetic or environmental in their purpose. According to DPW, these uses, if undertaken, will either be more costly to maintain or include features that the FCD has no experience maintaining. DPW indicates that provisions would need to be made either to have the proposed uses maintained by an agency other than FCD, or provide funding for the FCD to contract out the maintenance work. DPW is particularly concerned that additional maintenance responsibilities could lead to increased liability, and in addition, that some of the possible revitalization proposals for uses that are non-flood control related also raise the issue of liability because it is not clear which agency

Each Supervisor
May 24, 2006
Page 3

or agencies would be responsible for damages from potential claims related to "opening up the river".

The Department is recommending a position of support if amended, and oppose unless amended due to the technical issues related to maintenance and liability, and we concur. Therefore, the County's Washington, D.C. advocates and DPW will work with the County's Congressional delegation, the City of Los Angeles, and others to ensure that the Los Angeles River revitalization legislation is consistent with the County-adopted Los Angeles River Master Plan, defines the "Los Angeles River" as the 32 miles of the Los Angeles River within the City of Los Angeles, and clarifies liability and maintenance responsibilities and requirements. S. 2667 was referred to the Senate Environment and Public Works Committee, and H.R. 5244 was referred to the House Transportation and Infrastructure Committee. Neither bill has been scheduled for a hearing.

We will continue to keep you advised.

DEJ:GK
MAL:MT:EW:cc

c: All Department Heads
Legislative Strategist